

GMS Flash Alert

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Hungary - EU Posting Worker Rules Bring Employer Obligations under Hungarian Law

New legislation¹ has come into effect in Hungary concerning the EU's Directive on the posting of workers which imposes registration and reporting obligation on companies located within the European Economic Area (EEA) and posting (assigning) their employees to Hungary to provide services. Foreign employers posting workers to Hungary to provide services may also be subject to the new rules.

Furthermore, foreign companies are obliged to apply the rules of Hungary's Labor Code to their employment relationships with their assignees in Hungary with regards to maximum working hours, minimum paid annual holidays, the minimum wage, health, safety and hygiene issues at work, and provisions for non-discrimination.

The new provisions apply from 18 June 2016.

WHY THIS MATTERS

Based on the implementation of the Directive, additional administrative obligations have arisen for employers in Hungary regarding those foreign individuals who perform work activities in Hungary. These can also apply to foreign employers posting workers to Hungary to provide services.

In general, the new obligations are the following:

1. Registration and reporting obligations;
2. Requirements regarding compliance with Hungarian labor law;
3. Filing obligations with respect to employment documentation.

Where employers are non-compliant, in certain circumstances, penalties and other sanctions might apply.

Registration and Reporting Obligations

There are now important registration and reporting obligations for companies located within the EEA and posting (assigning) their employees to Hungary to provide services. These obligations also apply if companies based within the EEA post (assign) employees to their Hungarian establishment or subsidiary. The obligations must be fulfilled electronically (in Hungarian or in English) via the labor inspectorate Web page on the Web site for the Hungarian Ministry of National Economy.

The following data are required to fulfill registration requirements:

- the foreign company's data (name and the seat of the company, country of residence);
- information relating to the work activity;
- details of the foreign company's contact person (the contact person should be an individual who is able to represent the company before the Hungarian authorities anytime upon request).

Deadlines

The registration shall be filed by a foreign company no later than the first Hungarian work-day of the employee. In the case of ongoing assignments, the filing deadline for registration was 31 August 2016. However, many companies were not able to meet this deadline.

KPMG NOTE

The KPMG International member firm in Hungary understands that foreign companies can continue to complete their registration requirements even though the deadline has passed, but we recommend filing registrations as soon as possible.

Compliance with Hungarian Labor Law

Besides the registration and reporting obligations, foreign companies are obliged to apply the rules of the Hungarian Labor Code to their employment relationships with the assignee with regards the maximum working hours, minimum paid annual holidays, the minimum wage, health, safety and hygiene issues at work, and provisions for non-discrimination – unless the law applicable to the assignee's employment (based on the assignee's employment contract) is more favorable to the employees than the Hungarian rules.

Prior to the start of the posting (assignment), the Hungarian company shall inform the foreign company about the above-described labor rules applicable in Hungary. If the Hungarian company does not provide the information described above or if it can be proved that the Hungarian company had information that the foreign company does not meet the above-described requirements, both the Hungarian and foreign companies shall be subject to full financial liability for the payment of the salary and related social security contributions.

Filing Obligations and Documentation Record-Keeping

The Hungarian company is obliged to keep, and upon request, disclose to the authorities, documentation concerning the assignee (e.g., employment contract, time-sheets, proof of payment) during the period of the employee's Hungarian posting (assignment) and for a further three years following the end of the posting (assignment).

FOOTNOTE:

1 New provisions for the Hungarian Act on Labor Code and the Act on Labor Inspection came into force in order to introduce provisions of Directive 2014/67/EU of the European Parliament and of the Council on the enforcement of Directive 96/71/EC into Hungarian legislation. Directive 2014/67/EU concerns the posting (assignment) of workers who provide services.

Act LXXIX of 2016 and Act LXVII of 2016 (2016. évi LXXIX. Törvény egyes foglalkoztatási tárgyú törvények jogharmonizációs célú módosításáról and 2016. évi LXVII. törvény Magyarország 2017. évi központi költségvetésének megalapozásáról).

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Now Available: 2016 Global Assignment Policies and Practice Survey Report

KPMG's Global Mobility Services practice is excited to announce that the key findings from the Global Assignment Policies and Practices (GAPP) survey 2016 are now summed up in a new report.

The GAPP survey allows organizations to benchmark themselves in relation to other participants on numerous aspects of an international assignment program; including: assignee selection and assessment, assignment preparation and planning, talent and performance management, assignment compensation and allowances, administration and outsourcing, and tax reimbursement policies. In addition, new survey sections exploring the use of global mobility technology, data and analytics, and immigration management are featured. Globally, more than 100 cross-industry organizations took part in this year's survey.

To access your copy of the report, click [here](#).

Contact us

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